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SENATE BILL 492

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Vernon D. Asbill

AN ACT

RELATING TO LIVESTOCK; PROVIDING FOR EXCLUSIONS FROM  
IMPOUNDMENT OF ESTRAY ANIMALS; LIMITING ISSUANCE OF BRAND  
INSPECTION CERTIFICATES ON FEDERALLY SEIZED ANIMALS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 77-9-30 NMSA 1978 (being Laws 1891,  
Chapter 34, Section 3, as amended) is amended to read:

"77-9-30. EXPORTED LIVESTOCK--INSPECTION OF BRANDS AND  
EAR MARKS--RECORD.--

A. The board shall cause the brands and ear marks  
upon livestock shipped or driven from a district or out of this  
state to be inspected and a true and correct record of the  
result of such inspections to be kept in the office of the  
director for three years. The record shall set forth the date  
of the inspection; the place where and the person by whom made;

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1 the name and current address of the owner, shipper or claimant  
2 of the livestock inspected or the names and current addresses  
3 of all persons in charge of the livestock at the time of the  
4 inspection; the destination of the livestock; a list of all  
5 brands and ear marks upon the livestock inspected; and the  
6 number and classification of the livestock.

7 B. If a federal government entity seizes any  
8 privately owned animals subject to brand inspection pursuant to  
9 this section, the board or its authorized inspector shall not  
10 issue brand inspection certificates to remove the animal or for  
11 the transfer of ownership of the animals by sale or otherwise  
12 unless one of the following occurs:

13 (1) the board receives consent from the owner;

14 (2) the owner is unknown; or

15 (3) before the seizure, the federal government  
16 entity obtains approval for the seizure from a court of  
17 competent jurisdiction and submits a copy of the order  
18 approving the seizure to the board or its authorized inspector.

19 C. The provisions of this section do not apply to:

20 (1) a feral animal;

21 (2) a wild, free-roaming horse or burro  
22 defined pursuant to 16 U.S.C. 1332; or

23 (3) a stray animal."

24 Section 2. Section 77-13-2 NMSA 1978 (being Laws 1907,  
25 Chapter 80, Section 2, as amended) is amended to read:

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1 "77-13-2. IMPOUNDMENT OF ESTRAY ANIMALS.--

2 A. A person shall not impound an estray except when  
3 the estray is found on property the person owns or controls.  
4 When a person impounds an estray, [~~he~~] the person shall, within  
5 five days of the impoundment, notify the director or an  
6 inspector of the impoundment.

7 B. A person having knowledge of an estray upon any  
8 public or private range, fenced or unfenced, may notify the  
9 director or an inspector, giving a description of the estray,  
10 and, upon instructions from the board or inspector, the estray  
11 shall be turned over to an inspector for disposition as the  
12 board may direct according to law.

13 C. It is lawful for a person [~~having~~] who has  
14 knowledge of an estray grazing on public land, public highways  
15 or other lands used for grazing purposes in conjunction with  
16 public land and who has the prior approval of or is acting in  
17 cooperation with an agent of the board to impound and detain  
18 the estray for the purpose of ascertaining ownership by brand  
19 or other means of identification. The owner of the estray  
20 found to be in trespass shall be allowed forty-eight hours from  
21 receipt of notice of impoundment within which to claim the  
22 animal and make settlement for trespass damage. If the owner  
23 fails to claim the animal and effect a settlement for trespass  
24 damages within the time allowed, the estray detained shall be  
25 turned over to an inspector or other agent of the board for

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1 disposition in the same manner as provided for other estrays  
2 under Chapter 77, Article 13 NMSA 1978.

3 D. The provisions of this section do not apply to  
4 livestock for which the conditions of a federal permit, federal  
5 allotment or federal lease are in dispute."

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